

**COMMISSIONERS' OPEN MEETING
MINUTES OF MEETING HELD MARCH 14, 2012**

In attendance: Commissioners David Langhorst, Tom Katsilometes, and Richard Jackson; Valerie Dilley, Steve Fiscus, Robin O'Neill, Mark Poppler, Liz Rodosovich, Ted Spangler, Randy Tilley, Bill von Tagen, Doreen Warren; Cynthia Adrian, Rick Anderson, McLean Russell; Chris Barry, David Bettencourt, Judy Repp, Kenneth Repp, Cory Skinner, Randy Whitaker.

Public Session.

Commissioner Tom Katsilometes convened the meeting.

Presentation of Certificates of Service.

Roxanne Lopez acknowledged the employees that were receiving Certificates of Service and stated how much all of their work efforts were appreciated.

Roxanne, with the Commissioners, presented certificates to: David Bettencourt, Tax Technical Unit Supervisor in Central Processing (Revenue Operations), and Cory Skinner, Tax Compliance Technician, in Field Collections (Audit & Collections) for 5 years of service; Chris Barry, Tax Central Processing Bureau Chief in Central Processing (Revenue Operations) for 20 years of service, with a thank-you letter from the Governor; Kenneth Repp, IT Database Analyst (Information Technology) and Randy Whitaker, Tax Auditor 3 in Tax Discovery Bureau (Audit & Collections) for 30 years of service, with a thank-you letter from the Governor.

The certificate of service for Mary Santi, Tax Compliance Technician in Central Collections (Audit & Collections) for 5 years of service will be presented at a later time.

The Commissioners thanked the recipients and noted how their years of service and efforts were commendable and appreciated. The recipients were dismissed and invited to stay for the rest of the meeting.

Administrative Reports.

Audit & Collections, Randy Tilley.

Randy Tilley, Division Administrator for Audit & Collections (A/C), gave an update on the chart of audits and reviews completed by tax type, from July 1, 2011, through February 29, 2012. There were 13,236 individual income tax audits, 653 business income tax audits, 4,002 sales tax audits, 231 withholding audits, 349 fuels tax audits, and 141 other tax types' audits (beer, wine, estate, kilowatt hour, etc.) The audit staff is on pace to exceed 26,000 audits by the close of the fiscal year.

Randy reported on the recoveries as of February 29, 2012. At the end of February 2011, Tax Compliance Efforts were \$94,915,394 and costs were \$11,251,575. The two components were: 1) Base recoveries were \$89,241,927 and costs were \$10,657,776; 2) Phase 3 Governor's Compliance recoveries were \$5,673,467 and costs were \$593,799.

The goal for Phase 3 recoveries is based on projected annual recoveries. The Governor has established benchmarks as follows: 1st Quarter (\$756,800), 2nd Quarter (\$1,995,200), 3rd Quarter (\$3,646,400), 4th Quarter (\$6,880,000). Randy noted that Phase 3 recoveries were on target.

Revenue Operations, Doreen Warren.

Doreen Warren, Division Administrator for Revenue Operations (RO), noted that after a rocky start to income tax processing in January and early February, RO is settling in for the tax

season. Most tax drive temporary employees are in place and trained. RO is working through backlogs and working closely with Taxpayer Services (TPS) to ensure consistent messaging. Doreen and her staff appreciate the patience of the taxpayers and employees during this process.

RO is taking the initial steps to prepare for the imaging project, which received legislative approval. As soon as the Governor authorizes the agency's budget, they will be able to start the process.

Doreen noted that last season's e-filings in the Annual Withholding process has been exceeded by over 100 files. This year through March, there have been 28,436 paper returns filed and 16,900 e-filed through March. Last year the total was 45,000 paper returns and 14,200 e-filed.

The IFTA annual renewal process completed smoothly this year. RO canceled approximately 240 accounts at the end of the process, which ended on February 29. Typically, at this time of year, RO cancels approximately 300 accounts. There were no decal issues this year, but RO is monitoring if more may need to be ordered.

Property Tax Division, Steve Fiscus.

Steve Fiscus, Division Administrator for the Property Tax Division (PT), noted that the 5-year reappraisal plans have been submitted. There are 22 exceptions found for the 44 counties, some being contracts or simple maps. Letters will be sent to the counties that require follow-up next week.

The Ratio Studies have been completed. Three or four counties did not achieve minimum assessment levels and have been notified. PT will follow-up with studies this summer.

Steve added that PT will continue to provide assistance with legislation on legislative ideas.

Steve announced his division has a new senior tax appraiser, Erin Brady.

Commissioner Katsilometes noted how Steve has a massive public relations responsibility with all of the 44 counties and the elected officials.

Management Services, Mark Poppler.

Mark Poppler, Chief Financial Officer, noted that the Legislative Services Office (LSO) draft audit report for fiscal years 2009-2011 was received on February 28, 2012. As this represents LSO's every third year, more in-depth, review of internal controls and processes, it was a pleasure to learn that there were no audit findings to report. An accompanying Management Update letter was also received with one recommendation. The Management Update memo is a communication between LSO and the Commission and is not released to the public. Staff from LSO will attend a meeting with ISTC management next Thursday to discuss the report and the results. A formal response acknowledging the report will be required.

Mark does not expect the Refund Fund to run out of cash this year, but out of an abundance of caution the Commission requested permission to borrow up to \$20,000,000 just in case. The subcommittee of the Board of Examiners approved the request for borrowing authority for the Refund Fund at their meeting on Tuesday. It will be on the consent agenda for the actual Board meeting next Tuesday for official approval.

The Pilot Demonstration Project Fund, also called the STARs program – Sales Tax Anticipation Revenue. This is a law passed in the 2008 Legislature for the purpose of establishing a new method for financing public transportation infrastructure. Basically, a developer who spends the necessary minimum (currently \$4,000,000) on a qualifying retail complex can register with the Tax Commission, and have 60% of their sales tax payments go into the Pilot Demonstration Project Fund. If the developer is then able to obtain approval from the Idaho Transportation Department to build an interchange or other public transportation improvement with a minimum value of \$6,000,000, they can file claims for cost reimbursement from the Pilot Demonstration Project Fund.

The sales tax diverted is capped at a maximum of \$35,000,000 per project. Management Services (MS) received notification that one developer has met these requirements and will soon begin submitting claims for reimbursement. There is approximately \$8,000,000 currently in the fund.

The agency's supplemental request for funds in the current fiscal year to provide administration and collection functions for the Idaho Falls Auditorium District was approved by the Joint Finance Appropriations Committee (JFAC) on February 23, 2012. Mark notified the District and asked for a formal answer as to whether they wanted us to proceed or not. They have been independently collecting the tax since last fall and had hinted that they were no longer interested. However, MS received a formal request yesterday to proceed with creation of an MOU and a timeline. The Board is now leaning towards using our services but is saving final formal approval until they agree to the Memorandum of Understanding (MOU). A working group is being pulled together to create the MOU and timeline, and make sure the Tax Commission can accommodate their needs amongst all the agency's other priorities.

The ISTC FY2013 Budget Request was quickly approved at the JFAC budget setting session on March 2, 2012, thanks to the efforts and support of the whole management team. The actual appropriation bill is now waiting to be approved by both houses and then signed into law.

Public Information Office, Liz Rodosovich.

Public Information has fielded six media inquiries in the last three weeks—half of them were follow-ups to news releases on e-filing and use tax. The use tax release got especially good coverage from the media. The Pocatello Office Manager Darrell Wilde was interviewed by KIFI-TV in eastern Idaho, and Randy Tilley did a phone interview with Boise's KBOI radio.

Public Information has arranged for media training for the field office managers when they are in town next week.

Renee Eymann is helping Public Information coordinate Larry Gebert's live interviews at the Tax Commission on April 4.

Sandii Zavala from Taxpayer Services is scheduled to be at the Mexican consulate this afternoon to answer tax-related questions during a half-day tax help session. This is part of a week-long financial education program the consulate is sponsoring.

Requests for speakers have been coming in more often from the form on the agency website. Of the two requests in the last three weeks, Coeur d'Alene is handling a sales tax presentation in May for the Inland Northwest chapter of the National Association of Credit Management, and Tax Discovery is presenting a class tonight on income tax filing requirements for Job Corps students.

Public Information discovered a very good article promoting use tax in a local retailer's newsletter. Chairman Langhorst called the owner—Joan Adkins—to thank her for her part in educating the public. Joan has been a certified public accountant (CPA), and said she would be delighted to have the Tax Commission use her name in any publicity on use tax.

Information Technology, Michael Teller.

Mike Teller, the new Chief Information Officer, noted that he was happy to join the Tax Commission and everyone was very welcoming. Mike was meeting with the managers and still in an assessment phase, but anticipated having an action plan for Information Technology (IT) by next week.

Chairman Langhorst added that it has been a long time waiting and all were happy to have Mike here at the Tax Commission.

Reports on Rules Committees.

Sales Tax Rules – Committee Chair, McLean Russell.

McLean Russell, the Sales Tax Rules Committee Chair, noted the committee is working out the issues with notifying the public of the committee meetings. They were successful in the first meeting, but not so much in the second. The first meeting on January 17 had several attendees from the public and they discussed the resale of tickets and vouchers for admission to events in Idaho and for the use of recreational facilities. The presence of the public was very helpful in this case because of the particular points raised that the committee had not yet considered

The second meeting on February 23 had no attendees from the public. The committee discussed: 1) Rule 012 on contractors – the audit staff believes that a general update is in order; 2) Rule 037 on aircraft – continued discussion on the exemption for aircraft utilized for chartered flights; 3) several other minor rule changes.

The next Sales Tax Rules Committee meeting is at the end of March or beginning of April. This meeting will include 1) a follow up discussion on the resale of recreation and admissions, 2) a narrow discussion from the second meeting to the high priority changes, 3) a beginning discussion of necessary rule changes due to new legislation. The Bills already signed into law are a tax exemption on the sale of repair parts for aircraft owned by nonresidents and a tweak to tax exemption on purchase of IRP trucks and trailers. A bill regarding a tax exemption on free samples of beverages is waiting on the Governor's signature.

Income Tax, Administrative & Enforcement, Kilowatt, Mine License Rules – Committee Chair, Cynthia Adrian.

Cynthia Adrian, the Chair for the Income Tax, Administrative & Enforcement, Kilowatt, Mine License Rules Committee, reported that the committee has not met. During the legislative session, the committee is monitoring legislation and expressing any concerns. The next committee meeting will be after the Legislature adjourns.

Ted Spangler noted that HB 379 on oil and gas services tax has passed both houses. Cynthia noted that the bill asks the Tax Commission to administer the collection of tax and the rules need to be promulgated if the Governor signs the bill. Ted added that the Tax Commission would be responsible then to administer that tax, effective April 1. This will require structuring a whole new tax program, rules, and forms, if natural gas is pumped. Doreen and Randy noted their departments are already working on the processes and forms, which will be in place by December when the taxpayer expects to start pumping. Steve Fiscus noted that PT will be monitoring the collection moving and gathering process.

Property Tax Rules – Committee Vice Chair, Rick Anderson.

Rick Anderson, Property Tax Rules Committee Vice Chair, gave the committee's monthly report in place of Alan Dornfest, the Committee Chair, who was absent. Rick noted the following proposed rule amendments:

Rule 000 – Legal Authority rule – update to note new statutes that grant property tax rule making authority to the Commission. Rule 003 – Administrative appeals rule – update statutory references allowing operating property value and PTR appeals; also adds a new reference to the property tax deferral program appeal provision. Rule 006 – Incorporation by reference rule – provides date revisions to various cost manuals and IAAO standards, which are referred to in other rules. Rule 131 Ratio study rule – Incorporates the IAAO "Standard on Verification and Adjustment of Sales" into this rule. The immediate need for this incorporation is to gain guidance

on the inclusion/exclusion of foreclosure related sales in the ratio study. Rule 313 – Assessment of transient personal property rule – amends the rule to clarify that if the transient property is out of state, days should be counted in the Idaho home county for purposes of prorating the value for taxation. Rule 612 – (Approved by the Property Tax Committee) Exemption for vehicles properly registered – adds properly registered recreational vehicles to the rule, but affirms that recreational vehicles that are over 8 ½ feet wide cannot be registered by IDT, so these are not exempt under the statute. Rule 995 – Sales tax distribution – updates the description of an incorporated city and identifies the source of population estimates.

Proposed New Rules are as follows:

Rule 605 – Exemption for property used for school or educational purposes – Relating to leased property used by a school, clarifies the exclusive use provision of the statute 1) For multi-use real property the portion used exclusively for educational purposes qualifies for the exemption; 2) For personal property, the property must be used at the school facility, or have its use constrained to eliminate the possibility of use for other than educational purposes. Rule 714 – Defines “Sufficient Equity” and “Proportional Share” for the purpose of determining applicant’s eligibility to participate in the program.

Rick noted that the next committee meeting will be posted on the agency Website and the agenda will be posted prior to the meeting. The committee does have a list of regular attendees which are notified of committee meetings.

Commissioner Katsilometes, Steve Fiscus, and Rick briefly discussed the use of school’s computers for educational or exclusive use and when exempt or taxable.

Business Requiring Vote of the Commission.

Minutes.

Commissioner Langhorst moved that the minutes of the Open Meeting held on February 22, 2012, be approved and Commissioner Jackson seconded. There were no comments or amendments. All voted in the affirmative, and the minutes were approved.

Public Comments.

There were no more public comments.

Other.

Chairman Langhorst noted how this was a perfect example of what the Commission envisioned for an open meeting. The open meeting was more of a reporting session, while the Executive Leadership Team (ELT) meetings were working sessions. The Chairman thanked the ELT, Rules Committee Chairs, and Valerie Dilley for making the open meeting format work and for a good meeting.

Recess.

Commissioner Katsilometes recessed the Public Session for 10 minutes to reconvene for the commissioners to meet with the Commission’s legal counsel.

Reconvene Meeting.

Commissioner Katsilometes reconvened the open meeting. Commissioner Jackson moved to amend the agenda and have the executive session moved to beginning at 10:10 a.m. Commissioner Langhorst seconded. Commissioners Langhorst, Katsilometes, and Jackson voted in favor by roll call.

Executive Session.

The Commission meet in executive session with its legal counsel pursuant to Idaho Code § 67-2345(1)(f) to discuss the current status of litigation to which the Commission is a party. No matters requiring a vote of the Commission resulted from the executive session.

Commissioner Katsilometes declared the Executive Session was ended.

Other.

Bill von Tagen, Lead Deputy Attorney General, presented This Day in History.

This Day in History, March 14:

1794 – Patent for the cotton gin
1900 – U.S. currency is put on the Gold Standard.
1918 – First concrete ship crosses the Atlantic
1923 – President Harding is the first president to file an income tax return and pay taxes.

#1 Song

1964 – Beatles “I Want to Hold Your Hand,” first #1 hit, stays #1 for 7 weeks.
1966 – “Ballad of Green Berets” by Staff Sergeant Barry Sandler

Commissioner Katsilometes noted how impressed he was, after listening to the litigation reports, with the caliber of attorneys that are assigned to the Tax Commission and he commended the good job they are doing for the agency. All of the commissioners extended their appreciation for the deputy attorneys general, Bill von Tagen, Carl Olsson, Erick Shaner, Phil Skinner, Chelsea Kidney, and their paralegal/legal assistant, George Brown.

Bill added what a valuable help George has been in assisting the deputy attorneys general with all the litigation. George, although an attorney himself, is unable to appear in court for the agency since he is currently not a deputy attorney general.

There being no further business, the meeting adjourned.

Valerie Dilley
Secretary

Tom Katsilometes
Chair